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SUBJECT: PASSING THE BAR: ARMENIA'S LAWYERS SWEAT THROUGH A RITE OF
PASSAGE

Sensitive but unclassified. Please protect accordingly.

¶1. (U) SUMMARY: Last weekend, in a hot, somewhat dilapidated university gym, 309 aspiring Armenian attorneys sat for a legal rite of passage, the bar exam. Armenia has not offered a licensing exam for advocates in over five years and has one of the lowest percentages of lawyers per capita in the world. With support from ABA/CEELI, the Armenian Chamber of Advocates managed to conduct a reasonably clean exam qualifying 190 candidates for the oral interview phase. END SUMMARY.

THE SETTING

¶2. (U) In Armenia, the first rule for the bar exam was about smoking and the second was about cell phones. With the help of a USAID-funded American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI) program, the Armenian Chamber of Advocates (the Armenian bar association) tried to anticipate the needs of the 309 candidates seeking to take the first Armenian bar exam offered in more than five years. The testing site was an old, Soviet-style gym with rotting floor boards and filled with the sound of crickets. Rows of wooden school desks lined the floor, two-person benches attached to wooden desk tops covered with graffiti. And it was hot. It was hot in the room at 10:00 am when the candidates were just getting seated and stifling by 4:30 pm when most of the candidates were wrapping up.

THE CANDIDATES

¶3. (U) Three hundred and nine candidates and more than 50 monitors filled the main testing area, the gym floor, and a supplemental testing area, quickly identified when 25 extra candidates registered to take the criminal exam. There seemed to be slightly more male than female candidates with a very wide range of ages represented, from recent graduates to senior citizens. While ABA/CEELI expected it would take about two hours to complete the multiple-choice test, many candidates were still plugging away after three and a half, unfamiliar with the machine-readable answer sheets and painstakingly checking and rechecking their answers. The last candidates completed the exam around 5:30, five and a half hours after the start and eight hours after check-in began.

THE TEST

¶4. (SBU) ABA/CEELI and the Chamber of Advocates Qualification Commission (QC) had gone to great lengths to make the exam fair. Ten experts had drafted 2,400 multiple choice questions for the exam. Seven weeks before the test, candidates were given a manual with all the questions and corresponding answers. There was a mechanism by which particular questions could be challenged as

outdated, unclear, or vague. Nearly 300 questions were removed before the exam was finalized. Each actual test was comprised of 100 questions extracted from the roughly 2,100 valid possible questions.

ADVANCED COPIES FOR "SPECIAL CANDIDATES"?

15. (SBU) According to ABA/CEELI, "the week before the exam, key members of the QC threatened to cancel the exam if they were not provided copies of the final exam three days in advance. Several members were quite frank that they needed the exam in order to distribute it to special candidates." ABA/CEELI and other QC members resisted the pressure, however. The test itself was not generated until the day before the exam, when a computer-based program produced eight variants of the test, four for criminal law and four for civil law. The exams were sealed in individual envelopes and then resealed in plastic bags which would show any signs of tampering. ABA/CEELI was concerned that a member of the QC may have removed one version of the criminal exam from the preparation area, and rescrambled the questions and answers for that variant. On the day of the test 25 extra candidates changed their registration from the civil to the criminal exam. Some of these may have switched at the last moment because they had obtained the possibly leaked--and subsequently voided--edition of the criminal exam.

EXAM DAY SHENANIGANS

16. (SBU) In addition to the possibility of fraud involving members of the QC, some candidates tried to cheat during the test. A few were clearly copying from their neighbors (a futile effort as the

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variant system meant that candidates sitting near each other had different versions of the exam). One of the monitors, a hopeful young man, appeared to be coaching some of the more attractive young female candidates. Even the observer from the Court of Cassation, Armenia's highest court, appeared to be using her cell phone to research answers for a woman alleged to be the girlfriend of the head of the court. The monitors intervened in all of these cases, reminding candidates not to talk, not to share answers and keeping a vigilant watch over suspected cheaters. A few of the monitors, sadly, appear to have been involved in the cheating efforts. One candidate repeatedly asked a monitor for "his paper." The monitor reported the request to ABA/CEELI staff and it was determined that the candidate had mistaken the monitor he was speaking with for one who had agreed to pass answers.

ARE YOU HERE TO TAKE THE TEST?

17. (U) A handful of candidates did not appear to be taking the test at all. They sat for hours with blank answer pages, leafing through the test booklet in a haphazard fashion, apparently waiting for earlier (presumably brainier) test takers to complete the test and sneak their answers back in. The monitors were on to the scam, however, and camped out with these non-test takers, watching carefully for any attempts to swap answer sheets with another candidate or other types of fraud. After four and a half hours, one of the candidates, with a dramatic sigh, quickly filled in his answer sheet--apparently at random--without consulting the test booklet. It appeared that the monitor had waited him out.

MEMBERS OF THE QC THREATEN INVALIDATION

18. (SBU) At the end of a very long testing day, one of the members of the QC suddenly raised a question about the plastic envelopes in which the test had been stored. One of the envelopes, which had been publicly opened by Commission members in the morning, was

missing. The objector claimed that the loss of the envelope (even though it was empty) jeopardized the legitimacy of the test and said the whole examination session should be declared invalid. The head of the ABA/CEELI program, demonstrating tremendous composure, apologized for not having stationed a monitor to guard the trash. All members of the QC already agreed that there were no tests missing when the sealed packages were opened in the morning and eventually, the members of the QC were persuaded that the results should count. (COMMENT: Of course, invalidating the result would have meant the test had to be offered again, providing would-be cheaters and unscrupulous QC members a second shot at getting answers in advance to sell or provide to well-connected candidates. This last-ditch attempt to call a "do-over" suggests that the cheaters failed to beat the system this round. END COMMENT)

A SIXTY-ONE PERCENT PASS RATE

¶9. (SBU) The overall pass rate for the exam was 61 percent, suggesting, according to ABA/CEELI, that "the exam was reasonably challenging and that cheating was not particularly widespread or effective." Several candidates, including a former deputy prosecutor, the Court of Cassation Chairman's father, and a few of the most suspicious test takers identified above, failed. The 190 successful candidates received manuals with 350 sample questions for the oral exam, scheduled for September 30.

COMMENT: A MOMENT OF CULTURAL CHANGE

¶10. (SBU) Armenia has had a unified bar association since December 2004, when two feuding lawyers' unions were legally required to join forces. Since that time, Armenia's 435 licensed advocates have adopted a code of ethics, established a governing structure and elected the head of the newly created Public Defender Office. This exam--which we think successfully thwarted the various efforts at subversion--marks another significant step forward in the development of Armenia's legal community. We often talk about the need to develop rule of law, and in Armenia, it's happening, one sweaty test-taker at a time.

EVANS